

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: FRANK AUSTRUP, ET AL.

SERIAL NO.: 09/744,866

GROUP ART UNIT: 1642

FILED: April 2, 2001

EXAMINER: Stephen L. Rawlings

TITLE: CANCER CELLS FROM BODY FLUIDS
CONTAINING CELLS, ISOLATION THEREOF
AND AGENTS CONTAINING THE SAME

ATTY. REFERENCE: GIES3001

COMMISSIONER OF PATENTS

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Transmitted herewith is a communication/amendment in the above-identified application.

- ☐ Small entity status under 37 CFR 1.9 and 1.27 is claimed.
- ☒ No additional fee is required.

The fee, if any, has been calculated as shown below:

Fee Basis	Number of Claims After Amendment	Highest Number Previously Paid For	Extra Claims	Small Entity	Full Fee
Total Claims		- ¹	= ³	× \$ 25 =	× \$ 50 =
Independent Claims		- ²	= ³	× \$ 100 =	× \$ 200 =
<input type="checkbox"/> First Presentation of Proper Multiple Dependent Claim				+ \$ 180 =	+ \$ 360 =
TOTAL					

¹ If less than 20 enter 20.

² If less than 3 enter 3.

³ If less than 0 enter 0.

- ☐ Please charge my **Deposit Account Number 02-0200** in the amount of \$ _____. A duplicate copy of this sheet is attached.
- ☐ A check in the amount of \$ _____ is attached.
- ☐ The Commissioner is hereby authorized to charge any additional fees associated with this communication, including fees due under 37 CFR 1.16 and 37 CFR 1.17 or credit any overpayment to **Deposit Account Number 02-0200**. A duplicate copy of this sheet is attached.
- ☒ Also enclosed is/are:

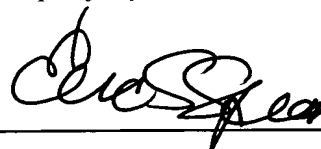
Declaration Under 37 C.F.R. §1.132

23364

Customer Number
Phone: (703) 683-0500

DATE: March 17, 2005

Respectfully submitted,



Attorney for Applicant Eric S. Spector
Registration Number: 22,495



UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
)
Frank AUSTRUP, et al.) Group Art Unit: 1642
)
Patent Application No. 09/744,866) Examiner: Stephen L. Rawlings
)
Filed: April 2, 2001) Confirmation No. 5636
)
For: CANCER CELLS FROM BODY FLUIDS CONTAINING CELLS,
ISOLATION THEREOF AND AGENTS CONTAINING THE SAME

SUPPLEMENTAL RESPONSE
ENCLOSING DECLARATION UNDER 37 C.F.R. §1.132

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A response was filed on January 18, 2005.

That response relies on certain data.

Enclosed is a Declaration Under 37 C.F.R. §1.132 which verifies that data.

In particular, the enclosed declaration shows:

1. That the size range for mesh or pore width of about 15 to 30 μm is justified. See section 5.1 of the declaration.
2. That for results obtained with immunomagnetic separation, increased number of genomic imbalances did not correlate with a higher probability of disease recurrence whereas for results obtained with the claimed invention, increased number of genomic imbalances did in fact correlate with a higher probability of disease recurrence. See section 5.2 of the declaration.

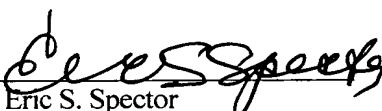
Application No. 09/485,879

3. That cancer cells recovered from ascitic fluid is similar to the geno- and phenotype of the primary tumor tissue and therefore would not have the prognostic meaning of the disseminated cells isolated in accordance with claim 1. See section 5.3 of the declaration.

Allowance is requested.

Respectfully submitted,

BACON & THOMAS PLLC

By: 
Eric S. Spector
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Case: M/39091-US
B&T Docket No. GIES3001

Date: March 17, 2005